

Notice of Allowability

Application No.

10/618,956

Examiner

Michael P. Barker

Applicant(s)

SINGH ET AL.

Art Unit

1626

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Amendment after Non-Final Rej. 6/7/2007.
2. ☒ The allowed claim(s) is/are 1-3;9;18;34;39;41; and 45-49.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|--|---|
| 1. <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____ |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____ |

DETAILED ACTION

Claims 1-3, 9, 18, 23, 34, 39, 41, and 45-49 are pending in this Application. **Claim 23** is canceled via Examiner's Amendment, *infra*. Therefore, **Claims 1-3, 9, 18, 34, 39, 41, and 45-49** remain and are in condition for allowance.

Examiner's Amendment

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Narinder Banait on June 11, 2007.

The application has been amended as follows:

Cancel **Claims 4-8, 10-17, 19-33, 35-38, 40, 42-44, and 50-56**.

There are no other amendments required.

Response to Remarks

Applicant amended **Claims 1, 23, 34, and 45** and canceled **Claims 4-8, 10-17, 19-22, 24-33, 35-38, 40, 42-44, and 50-56**. However, the text of these canceled Claims was retained in the Amended Claims filed June 7, 2007. The Examiner's Amendment, *supra*, corrects this omission thereby deleting each of the canceled Claims. Applicant's amendments and cancellations overcome the rejection under 35 U.S.C. 112, first paragraph.

Reasons for Allowance

Applicant's invention is drawn to compounds of **Claim 1**, as well as mixtures containing those compounds, and lipid membranes labeled with those compounds. Applicant's invention is free of prior art, meaning no art was found which anticipated nor rendered the instant invention obvious. While there are many references which teach xanthine rings, it is difficult to find prior art which could be considered 'close' to Applicant's invention, ie prior art which contains a xanthene ring-based electrophoretic tag coupled with a lipophilic moiety and cleavable linker. The closest prior art is Nampalli, et al. which discloses compounds similar to the instant invention. However, none of the disclosed compounds meet each and every structural limitation of the instant invention.

Therefore, **Claims 1-3, 9, 18, 34, 39, 41, and 45-49** are free of the prior art and
ALLOWED.


Telephone Inquiry

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael P. Barker whose telephone number is (571) 272-4341. The examiner can normally be reached on Monday-Friday 8:00 AM- 5:00 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Joseph K. McKane, can be reached at (571) 272-0699. The unofficial fax phone for this group are (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications

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may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is viable through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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